

ENVIRONMENTAL QUALITY

CHAPTER 20

MAJOR FACILITY SITING

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Sub-Chapter 3

General Provisions

17.20.301 DEFINITIONS Unless the context requires and clearly states otherwise, in these rules:

(1) "Act" means the Montana Major Facility Siting Act, Title 75, chapter 20, MCA.

(2) "Alternative technological component" means a reasonable alternate design for a process area or component of an energy generation or conversion facility including, but not limited to, cooling systems, fuel handling or transport systems, pollution control systems, coal combustion, and heat transfer systems.

(3) "Alternative transmission technology" means a reasonable alternate design for a transmission facility including, but not limited to, underground construction, alternative voltage or conductor sizes, direct current transmission, and alternative circuit design or deployment.

(4) "Applicant" means a person filing an application with the department and any other entities that will jointly own, operate, market, and/or use the output or services of the facility applied for in the application.

(5) "Application" means an application to the department for a certificate of compliance under 75-20-211, MCA.

(6) "Assistance" means public support or subsidies including, but not limited to, tax credits, accelerated depreciation, loan guarantees, low interest loans, price supports and price guarantees.

(7) "Associated facilities" is defined in 75-20-104(3), MCA.

(8) "Associated powerline" means an associated facility consisting of an electrical distribution or transmission line that:

(a) is not a facility defined in 75-20-104(8)(c), MCA; and

(b) is used in delivery of electrical energy to or from a generation or conversion facility.

(9) "Baseline data" means detailed information which describes the existing natural, physical, cultural, social, and economic environment.

(10) "Baseline study" means a detailed analysis of a proposed site for a generation or conversion facility and impact zones or alternative facility locations and impact zones for a linear facility for purposes of impact assessment and comparison and selection of a preferred facility location.

(11) "Board" means the board of environmental review.

(12) "Block load" means the load of an energy consumer whose individual demand is 5% or more of the applicant's peak demand on a linear facility or the load of any other customer that an applicant serves under a specific contractual agreement rather than under a general rate category.

(13) "Certificate holder" means an applicant that has been granted a certificate or who has received a certificate by transfer and has agreed to be bound by the terms, conditions, and modifications contained in the certificate.

(14) "Decommission" means to permanently remove a facility from service, including any physical changes such as dismantling the facility at the end of its useful life and reclaiming the site or route.

(15) "Demand" means the quantity of energy that customers would be willing to purchase in a specific time period.

(16) "Department" means the department of environmental quality.

(17) "Energy conservation" means reducing the amount of energy required to accomplish a given quantity of work through increases in efficiency in energy use, production or distribution.

(18) "Energy resource" means a resource that can be converted into energy for ultimate end-use, either directly or by intermediate conversion into electricity, synthetic gas or synthetic liquid hydrocarbons. Energy resources include, but are not limited to, coal, natural gas, liquid hydrocarbons, nuclear, geothermal resources, wind, solar, biomass and falling water.

(19) "Energy technology" means a technology for converting an energy resource into the energy form to be produced by a proposed facility.

(20) "Facility" is defined in 75-20-104, MCA.

(21) "Facility location" means a location for a linear facility accurately depicted to within 250 feet unless otherwise specified by the department by a line one millimeter or less in width drawn on a 1:24,000 map, and which may or may not be surveyed.

(a) "Alternative facility location" means one of the alternative locations potentially suitable for construction of a linear facility that has been depicted on overlays to the base map described in Circular MFSA-2, section 3.3;

(b) "Approved facility location" means the precise location for a linear facility that is approved by the department and accurately depicted to within 250 feet, unless otherwise specified by the department, in the certificate;

(c) "Preferred facility location" means the applicant's desired location for a linear facility as depicted on overlays to the base map described in Circular MFSA-2.

(22) "Impact zone" means the study area in which data is collected during the baseline study in order to make a determination of the impacts from construction, operation, maintenance or decommissioning of a proposed facility or associated facility at the preferred and reasonable alternative locations.

(23) "Inputs" means the basic resources, including materials, equipment, and labor required to construct and operate a facility.

(24) "Interruptible load" means a load that by contract can be interrupted in the event of a capacity deficiency on the supplying system.

(25) "Levelized cost" means the present value of the real cost stream over the life of a project, amortized over the project life.

(26) "Linear facility" means an electric transmission line or a gas or liquid pipeline covered by the Act.

(27) "Load center" means any substation or geographic concentration of substations within a 100 square mile area containing at least 5% of an applicant's load.

(28) "Market area" means a geographic area where a significant portion of the output of a facility proposed by a competitive utility or nonutility would be sold.

(29) "Mitigation" means avoiding an impact by not taking a certain action or parts of an action, or minimizing impacts by limiting the degree or magnitude of an action and its implementation, or rectifying an impact by repairing, rehabilitating, or restoring the affected environment, or reducing or eliminating an impact over time by preservation and maintenance operations during the life of an action, or compensating for an impact by replacing or providing substitute resources or environments.

(30) "Monitoring data" means environmental information that is collected to measure changes resulting from construction, operation, maintenance or decommissioning of a facility approved by the board or that is collected to determine compliance with the conditions of the certificate issued by the board.

(31) "No action alternative" means the alternative of not building a proposed facility or any other facility to meet the need or solve the problem a proposed facility would address.

(32) "Outputs" means the principal product of a facility and the by-products and wastes produced by the facility.

(33) "Overview survey" means the collection and mapping of environmental information within a study area for the purpose of selecting alternative facility locations.

(34) "Paralleling" means locating a proposed linear facility directly adjacent to or overlapping the right-of-way of an existing linear utility, transportation or communication facility.

(35) "Person" is defined by 75-20-104(11), MCA.

(36) "Road" means a way or course that is constructed or formed by substantial recontouring of land, clearing, or other action designed to be permanent or intended to permit passage by most four-wheeled vehicles for a significant period of time.

(37) "Service area utility" means a utility with a legally protected service area or body of customers for whom it has a conventional utility mandate to serve all loads or wholesale energy suppliers with requirements contracts, participation agreements, or similar arrangements with such utilities for the energy form to be produced by a proposed facility. This includes, but is not limited to, investor-owned utilities, rural electric cooperatives, municipal energy utilities and public utility districts, and generating and transmission cooperatives.

(38) "Significant adverse impact" means a detrimental change in the social, economic, cultural, physical or natural environment as a result of the construction, operation, maintenance, or decommissioning of a facility, as determined by the department on the basis of the impact's severity, duration, geographic extent, or frequency of occurrence or the uniqueness of the affected environmental value or its importance to the state and/or to society.

(39) "Site" means the parcel of land the applicant would acquire to construct the buildings, components, and nonlinear associated facilities comprising an energy generation or conversion facility.

(a) "Proposed site" means the applicant's proposed location for an energy generation or conversion facility and the site for which a certificate is sought.

(40) "Siting study" means an analysis conducted by the applicant to identify a preferred route.

(41) "Study area" means a geographical area of variable size and width that is potentially suitable for siting a linear facility.

(42) "Utility facility" means a facility whose output will be marketed as energy. (History: 75-20-105, MCA; IMP, 75-20-104, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01; AMD, 2005 MAR p. 252, Eff. 2/11/05.)

17.20.302 PUBLIC RECORD--CONFIDENTIALITY (1) Any records, materials, or other information furnished pursuant to the Act or these rules are a matter of public record and are open to public inspection, unless they are entitled to protection under the Uniform Trade Secrets Act, Title 30, chapter 14, part 4, MCA.

(2) A person furnishing documents that the person believes are entitled to protection as trade secrets shall notify the department before or at the time the person furnishes the documents to the department. If the department determines that the information is protected, it shall maintain the documents as confidential. If the department determines that the documents are not entitled to protection, it shall notify the person and maintain the documents as confidential for a period reasonably necessary for the person to obtain a court order requiring the department to maintain confidentiality. (History: 75-20-105, MCA; IMP, 75-20-211, MCA, and Mont. Const. 1972, Art. II, Sec. 9; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863; AMD, 2001 MAR p. 2410, Eff. 12/7/01.)

17.20.303 FORMAT (1) Documents required by the Act and explained in these rules must be typed, printed, or otherwise legibly reproduced on 8½" x 11" paper, or as otherwise approved in writing by the department.

(2) The text and attachments shall be consistently and consecutively numbered.

(3) Maps, drawings, charts, photographs or other illustrations may accompany a document as separate attachments that are sized and scaled appropriately to the material presented. Attachments must be identified as "attachment ____." An attachment comprising more than one sheet must be numbered "sheet ____ of ____."

(4) Documents must state the name, title, telephone number, and post office address of the person to whom communications regarding the document are to be made. (History: 75-20-105, MCA; IMP, 75-20-105, MCA; NEW, 1984 MAR p. 1844, Eff. 12/28/84; TRANS, from DNRC, 1996 MAR p. 2863.)

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